



2025:DHC:10394



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Reserved on:28.08.2025**Pronounced on:24.11.2025**Uploaded on:24.11.2025*+ **W.P.(C) 10856/2025 & CM APPL. 44819/2025**

SANJAY SINGH MEENA

.....Petitioner

Through: Mr. Syed Kashif Hussain, Mr.
Sameer Khan, Mr. Mohit Gaurav
& Ms. Inza Shahzad, Advocates.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Ms. Gauri Goburdhun, SPC with
Ms. Pinky Pawar, Advocate for
UoI.
Mr. Rajesh Gupta, Advocate for R-
2.**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****J U D G M E N T****PRATEEK JALAN, J**

1. By way of this writ petition under Article 226 of the Constitution, the petitioner, who was a candidate for the post of Engineer (RE-Civil) in respondent No. 2 – NTPC Green Energy Ltd. [“NGEL”], challenges a communication dated 11.06.2025, by which NGEL withdrew an offer of appointment dated 27.03.2025 issued to him, on the ground that the petitioner is accused in a pending criminal case, and concealed this information in his application form.

2. NGEL issued Advertisement No. 01/24 on 20.03.2024, for recruitment to various posts on a fixed-term basis for a period of three



years. These included twenty posts of Engineer (RE-Civil). The advertisement, *inter alia*, contained the following stipulation:

“While applying for the post, the applicant should ensure that he/she fulfills the eligibility and other norms mentioned above, as on the specified dates and that the particulars furnished are correct in all respects. In case it is detected at any stage of recruitment that a candidate does not fulfill the eligibility norms and/or that he/she has furnished any incorrect/false information or has suppressed any material fact(s), his/her candidature will stand automatically cancelled. If any of the above shortcoming(s) is/are detected even after appointment his/her services are liable to be terminated without any notice. Canvassing in any form shall disqualify the candidate.”

3. The petitioner submitted his application pursuant to the aforesaid advertisement. Column 17(v) of the application form, as submitted by the petitioner, reads as follows:

**“Whether any civil or criminal action or inquiry is going on against the applicant as far as his/ her knowledge goes ? If yes, give details :
NO ”¹**

4. The petitioner thereafter appeared for the written examination and interview conducted NGEL. Pursuant thereto, an “Offer of Engagement” dated 27.03.2025 was issued by NGEL, stating that he had been provisionally selected for the post. The aforesaid offer also specified the following conditions:

*“1. You will be engaged on Fixed Term basis initially for a period of THREE YEARS from the date of joining which may be extended up to a maximum period of five years (including initial period) based on project requirement and individual’s performance. **Your engagement on fixed term basis is subject to the following:***

a. Satisfactory verification of your credentials/ testimonials, etc.

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19. Company rules require certification/verification of your character and antecedents (C&A). If any adverse report(s) is received from the concerned District Authority(ies), the Company reserves the right to terminate your engagement at NGEL without notice or pay at any time without assigning any reason.

¹ Emphasis supplied.



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24. While reporting, you shall bring the following documents in **original** for verification and submit a copy of each for our records:

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f. Attestation forms (4 sets) - all four sets to be duly filled up and completed in all respects & enclosed Affidavit w.r.t. criminal proceedings, if any (enclosed as Annexure B).

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h. 02 Character certificates from two different persons not related to you from amongst the following:

- a) Gazetted officer of Central or State Governments.
- b) Members of Parliament/State Legislatures.
- c) District Magistrate or Sub-Divisional Magistrates.
- d) Tehsildars or Naib/Deputy Tehsildars, authorized to exercise magisterial powers.
- e) Principals of the recognized Educational Institutions last attended.”²

5. The petitioner reported for joining on 10.04.2025. At this time, he claims to have submitted an Attestation Form (Annexure B) dated 07.04.2025, alongwith an affidavit dated 08.04.2025, as mandated under Clause 24(f) of the Offer of Engagement. According to the petitioner, NGEL did not accept the Attestation Form for want of necessary documents.³ NGEL, however, denies that any Attestation Form was submitted on 10.04.2025. Be that as it may, the petitioner’s contention is that, in the said form, the petitioner disclosed for the first time that he had been arrested, kept in detention, and that a criminal case was pending against him before a court of law. The extract from the Attestation Form, which was handed up in Court and taken on record by order dated 25.07.2025, is set out below:

² Emphasis supplied.

³ It may be noted that the writ petition does not contain any averment in this regard. However, these contentions find place in the rejoinder filed by the petitioner.



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- 13.(i) (a) Have you ever been arrested? Yes/No
(क) क्या आप कभी गिरफ्तार हुए हैं? हाँ/नहीं
- (b) Have you ever been prosecuted? Yes/No
(ख) क्या आपको कभी सजा दी गई है? हाँ/नहीं
- (c) Have you ever been kept under detention? Yes/No
(ग) क्या आपको कभी जेल में रखा गया है? हाँ/नहीं
- (d) Have you ever been bound down? Yes/No
(घ) क्या आपको कभी आबद्ध किया गया है? हाँ/नहीं
- (e) Have you ever been fined by a Court of Law? Yes/No
(ङ) क्या आपको कभी न्यायालय द्वारा जुर्माना किया गया है? हाँ/नहीं
- (f) Have you ever been convicted by a Court of Law for any offence? Yes/No
(च) क्या आपको किसी अपराध के लिए न्यायालय द्वारा सजा दी गई है? हाँ/नहीं
- (g) Have you ever been debarred from any examination or rusticated by any university or any other educational authority/ institution? Yes/No
(छ) क्या आपको किसी विश्विद्यालय अथवा किसी प्राधिकारी/संस्थान द्वारा किसी परीक्षा से निकाला अथवा अस्थायी रूप से बहिष्कृत किया गया है? हाँ/नहीं
- (h) Have you ever been debarred/disqualified by any Public Service Commission from appearing at its examination/selection? Yes/No
(ज) क्या आपको किसी लोक सेवा आयोग द्वारा उसकी परीक्षा/चयन में भाग लेने से निकाला गया/अयोग्य किया गया है? हाँ/नहीं
- (i) Is any case pending against you in any court of law at the time of filling up this Attestation Form. Yes/No
(झ) क्या इस सत्यापन प्रपत्र को भरते समय किसी न्यायालय में आपके विरुद्ध कोई मुकदमा लंबित है? हाँ/नहीं

- (j) Is any case pending against you in any University or any other educational authority/ institution at the time of filling up this Attestation Form. Yes/No
(ञ) क्या इस सत्यापन प्रपत्र को भरते समय आपके विरुद्ध किसी विश्विद्यालय शैक्षणिक प्राधिकारी/संस्थान में कोई मामला लंबित है? हाँ/नहीं
- (iii) If the answer to any of the above mentioned question is 'Yes' give full particulars of the case/arrest/detention/fine/conviction/sentence/punishment etc. and/or the nature of the case pending in the Court/University/Educational Authority etc., at the time of filling up this form
- (ii) अगर ऊपर उल्लिखित किसी भी प्रश्न का उत्तर "हाँ" है तो मामले/गिरफ्तारी/जेल में रहने/जुर्माने/सजा आदि और/अथवा न्यायालय/विश्विद्यालय शैक्षणिक प्राधिकारी आदि के पास इस सत्यापन प्रपत्र को भरते समय लंबित मामले की प्रकृति का पूरा विवरण दें

NOTE: (i) Please also see the warning at the top of this Attestation Form.

(i) कृपया इस सत्यापन प्रपत्र के शीर्ष पर चेतावनी भी देखें।

(ii) Specific answer each of the questions should be given by striking Out 'Yes' or 'No' as the case may be.

(ii) "हाँ" अथवा "नहीं"; जैसा भी मामला हो, पर निशान लगते हुए प्रत्येक प्रश्न का विशिष्ट उत्तर दिया जाना चाहिए।



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6. After the petitioner reported on 10.04.2025, he sought an extension of his joining date. A copy of a communication dated 15.04.2025, addressed by him to NGEL, has been placed on record, wherein he sought extension of the joining date “*due to unavailability of some essential documents.*” The request was accepted by the competent authority of NGEL, and his joining time was extended until 30.04.2025.

7. Subsequently, on 24.04.2025, the petitioner submitted an affidavit dated 15.04.2025, wherein he disclosed that a case was pending against him before the concerned Court in Udaipur, in which he had been accused under Sections 38, 48, 48A, and 49 of the Wild Life (Protection) Act, 1972. In the said affidavit, the petitioner undertook that, in the event of any progress in the aforesaid case or receipt of any related information, he would keep the concerned authorities informed, and that he would duly comply with all the rules and laws of the said department. He further undertook that he may be retained in service on a contractual basis until the court delivers its judgment, and that, in the event the court finds him guilty, he may be immediately dismissed from service forthwith.

8. NGEL, in its counter affidavit, asserts that it independently came across information linking the petitioner to a criminal case involving alleged wildlife smuggling. A newspaper clipping dated 01.10.2023 has been placed on record, reporting that five individuals, including the petitioner, were arrested for smuggling an 8-kg elephant tusk valued at approximately Rs.1.5 crore. According to NGEL, the petitioner’s affidavit dated 15.04.2025 was submitted on 24.04.2025, only after this information had been discovered by NGEL through independent inquiry.



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9. The criminal proceedings referred to above, as well as in the petitioner's affidavit dated 15.04.2025, arise out of FIR No. 0584/2023, lodged on 30.09.2023 at PS Savina, District Udaipur, under Sections 38, 48, 48A, and 49 of the Wild Life (Protection) Act, 1972. The petitioner is one of five accused, against whom it was alleged that they were in possession of an elephant tusk, which they intended to sell. The petitioner was among the occupants of a vehicle apprehended by the police, in which a bag containing the elephant tusk was recovered. He was arrested on 30.09.2023, in connection with the incident, and was subsequently granted bail by the concerned Court on 10.10.2023. A chargesheet in the matter was filed on 31.12.2023, and the case remains pending before the competent criminal Court.

10. The petitioner also subsequently submitted written applications and legal notices seeking an opportunity to join NGEL.

11. However, by the impugned communication dated 11.06.2025, NGEL withdrew the offer, on the ground of the petitioner's involvement in the aforesaid criminal case, as well as the alleged concealment of this information in his application form. The communication further noted that the allegations against the petitioner were serious, as they concerned illegal possession and transportation of an elephant trunk [*sic*: tusk] for the purpose of sale.

12. I have heard Mr. Syed Kashif Hussain, learned counsel for the petitioner, and Mr. Rajesh Gupta, learned counsel for NGEL.

13. Before advertng to the facts of the present case, the legal principles governing the effect of pending criminal cases on offers of public employment, may be recapitulated.



14. In *Avtar Singh v. Union of India*⁴, the Supreme Court referred to several earlier authorities on the subject, and summarized the law in the following principles:

“29. The verification of antecedents is necessary to find out fitness of incumbent, in the process if a declarant is found to be of good moral character on due verification of antecedents, merely by suppression of involvement in trivial offence which was not pending on date of filling attestation form, whether he may be deprived of employment? There may be case of involving moral turpitude/serious offence in which employee has been acquitted but due to technical reasons or giving benefit of doubt. There may be situation when person has been convicted of an offence before filling verification form or case is pending and information regarding it has been suppressed, whether employer should wait till outcome of pending criminal case to take a decision or in case when action has been initiated there is already conclusion of criminal case resulting in conviction/acquittal as the case may be. The situation may arise for consideration of various aspects in a case where disclosure has been made truthfully of required information, then also authority is required to consider and verify fitness for appointment. Similarly in case of suppression also, if in the process of verification of information, certain information comes to notice then also employer is required to take a decision considering various aspects before holding incumbent as unfit. If on verification of antecedents a person is found fit at the same time authority has to consider effect of suppression of a fact that he was tried for trivial offence which does not render him unfit, what importance to be attached to such non-disclosure. Can there be single yardstick to deal with all kinds of cases?

30. The employer is given “discretion” to terminate or otherwise to condone the omission. Even otherwise, once employer has the power to take a decision when at the time of filling verification form declarant has already been convicted/acquitted, in such a case, it becomes obvious that all the facts and attending circumstances, including impact of suppression or false information are taken into consideration while adjudging suitability of an incumbent for services in question. In case the employer comes to the conclusion that suppression is immaterial and even if facts would have been disclosed it would not have adversely affected fitness of an incumbent, for reasons to be recorded, it has power to condone the lapse. However, while doing so employer has to act prudently on due consideration of nature of post and duties to be rendered. For higher officials/higher posts, standard

⁴ (2016) 8 SCC 471 [hereinafter “Avtar Singh”].



has to be very high and even slightest false information or suppression may by itself render a person unsuitable for the post. However, same standard cannot be applied to each and every post. In concluded criminal cases, it has to be seen what has been suppressed is material fact and would have rendered an incumbent unfit for appointment. An employer would be justified in not appointing or if appointed, to terminate services of such incumbent on due consideration of various aspects. Even if disclosure has been made truthfully, the employer has the right to consider fitness and while doing so effect of conviction and background facts of case, nature of offence, etc. have to be considered. Even if acquittal has been made, employer may consider nature of offence, whether acquittal is honourable or giving benefit of doubt on technical reasons and decline to appoint a person who is unfit or of dubious character. In case employer comes to conclusion that conviction or ground of acquittal in criminal case would not affect the fitness for employment, incumbent may be appointed or continued in service.

31. Coming to the question whether an employee on probation can be discharged/refused appointment though he has been acquitted of the charge(s), if his case was not pending when form was filled, in such matters, employer is bound to consider grounds of acquittal and various other aspects, overall conduct of employee including the accusations which have been levelled. If on verification, the antecedents are otherwise also not found good, and in number of cases incumbent is involved then notwithstanding acquittals in a case/cases, it would be open to the employer to form opinion as to fitness on the basis of material on record. In case offence is petty in nature and committed at young age, such as stealing a bread, shouting of slogans or is such which does not involve moral turpitude, cheating, misappropriation, etc. or otherwise not a serious or heinous offence and accused has been acquitted in such a case when verification form is filled, employer may ignore lapse of suppression or submitting false information in appropriate cases on due consideration of various aspects.

32. No doubt about it that once verification form requires certain information to be furnished, declarant is duty-bound to furnish it correctly and any suppression of material facts or submitting false information, may by itself lead to termination of his services or cancellation of candidature in an appropriate case. However, in a criminal case incumbent has not been acquitted and case is pending trial, employer may well be justified in not appointing such an incumbent or in terminating the services as conviction ultimately may render him unsuitable for job and employer is not supposed to wait till outcome of criminal case. In such a case non-disclosure or submitting false information would assume significance and that by



itself may be ground for employer to cancel candidature or to terminate services.

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34. No doubt about it that verification of character and antecedents is one of the important criteria to assess suitability and it is open to employer to adjudge antecedents of the incumbent, but ultimate action should be based upon objective criteria on due consideration of all relevant aspects.

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38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of the aforesaid discussion, we summarise our conclusion thus:

38.1. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.

38.2. While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.

38.3. The employer shall take into consideration the government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

38.4. In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourses appropriate to the case may be adopted:

38.4.1. In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.

38.4.2. Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

38.4.3. If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts



available as to antecedents, and may take appropriate decision as to the continuance of the employee.

38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

38.6. In case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion, may appoint the candidate subject to decision of such case.

38.7. In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.

38.8. If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.

38.9. In case the employee is confirmed in service, holding departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

38.10. For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.

38.11. Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him.”⁵

15. Three more recent judgments of the Supreme Court have also addressed the same issue:

⁵ Emphasis supplied.



(a) In *Pawan Kumar v. Union of India*⁶, the Court was concerned with the appointment of a candidate to the post of constable in the Railway Protection Force. The candidate had not disclosed that he had previously been prosecuted for offences under Sections 148, 149, 323, 506, and 356 of the Indian Penal Code, 1860, but had been honourably acquitted. He was subsequently appointed, but was discharged from service when these facts came to light. The Supreme Court reinstated him, relying on the judgment in *Avtar Singh*, with the following observations:

“10. It may be noticed that while a recruit is selected and before he is formally appointed, his character/antecedents have to be verified and after due verification if the recruit is found suitable for the post, may be considered for appointment as a member of the force. What is required that after the verification of character/antecedents of the recruit has taken place, it presupposes and casts an obligation on the appointing/competent authority to take into consideration as to whether the kind of suppression of alleged information/false declaration holds him suitable for appointment to the force, in terms of Rule 52 of the 1987 RPF Rules.

11. This cannot be disputed that the candidate who intends to participate in the selection process is always required to furnish correct information relating to his character and antecedents in the verification/attestation form before and after induction into service. It is also equally true that the person who has suppressed the material information or has made false declaration indeed has no unfettered right of seeking appointment or continuity in service, but at least has a right not to be dealt with arbitrarily and power has to be judiciously exercised by the competent authority in a reasonable manner with objectivity having due regard to the facts of the case on hand. It goes without saying that the yardstick/standard which has to be applied with regard to adjudging suitability of the incumbent always ***depends upon the nature of post, nature of duties, effect of suppression over suitability to be considered by the authority on due diligence of various aspects but no hard-and-fast rule of thumb can be laid down in this regard.***

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⁶ (2023) 12 SCC 317 [hereinafter “*Pawan Kumar*”].



13. What emerges from the exposition as laid down by this Court is that by mere suppression of material/false information regardless of the fact whether there is a conviction or acquittal has been recorded, the employee/recruit is not to be discharged/terminated axiomatically from service just by a stroke of pen. At the same time, **the effect of suppression of material/false information involving in a criminal case, if any, is left for the employer to consider all the relevant facts and circumstances available as to antecedents and keeping in view the objective criteria and the relevant service rules into consideration,** while taking appropriate decision regarding continuance/suitability of the employee into service. What has been noticed by this Court is that mere suppression of material/false information in a given case does not mean that the employer can arbitrarily discharge/terminate the employee from service.”⁷

(b) In *Satish Chandra Yadav v. Union of India*⁸, on the other hand, a candidate serving in the post of constable in the Central Reserve Police Force [“CRPF”] was dismissed on the ground that he had failed to disclose the pendency of criminal proceedings against him. Relying on several earlier judgments, including *Avtar Singh*, the Court observed as follows:

“92. The only reason to refer to and look into the various decisions rendered by this Court as above over a period of time is that the **principles of law laid therein governing the subject are bit inconsistent.** Even after the larger Bench decision in *Avtar Singh* different courts have enunciated different principles.

93. In such circumstances, we undertook some exercise to shortlist the broad principles of law which should be made applicable to the litigations of the present nature. The principles are as follows:

93.1. **Each case should be scrutinised thoroughly by the public employer** concerned, through its designated officials — more so, in the case of recruitment for the Police Force, who are under a duty to maintain order, and tackle lawlessness, since their ability to inspire public confidence is a bulwark to society's security. (See *Raj Kumar*⁹)

93.2. Even in a case where the employee has made declaration truthfully and correctly of a concluded criminal case, the employer still has the right to consider the antecedents, and cannot be

⁷ Emphasis supplied.

⁸ (2023) 7 SCC 536 [hereinafter “*Satish Chandra Yadav*”].

⁹ *State v. Raj Kumar* [(2021) 8 SCC 347].



compelled to appoint the candidate. The acquittal in a criminal case would not automatically entitle a candidate for appointment to the post. It would be still open to the employer to consider the antecedents and examine whether the candidate concerned is suitable and fit for appointment to the post.

93.3. The suppression of material information and making a false statement in the verification form relating to arrest, prosecution, conviction, etc. has a clear bearing on the character, conduct and antecedents of the employee. *If it is found that the employee had suppressed or given false information in regard to the matters having a bearing on his fitness or suitability to the post, he can be terminated from service.*

93.4. *The generalisations about the youth, career prospects and age of the candidates leading to condonation of the offenders' conduct, should not enter the judicial verdict and should be avoided.*

93.5. *The Court should inquire whether the authority concerned whose action is being challenged acted mala fide.*

93.6. *Is there any element of bias in the decision of the authority?*

93.7. *Whether the procedure of inquiry adopted by the authority concerned was fair and reasonable?"*¹⁰

(c) In *Ravindra Kumar v. State of U.P.*¹¹, the Court emphasized that there is no hard and fast rule requiring the cancellation of a candidate's employment solely on account of non-disclosure of a criminal case in which he had been acquitted.

16. It is evident from the foregoing decisions, that the determination of whether a candidature may be cancelled on such a ground, requires an inquiry, *inter alia*, into the status of the criminal proceedings, the nature of the offence, and the nature of the post applied for. While all relevant circumstances must be carefully and duly considered, the Court has consistently emphasized that deliberate suppression of material facts cannot be condoned. In *Avtar Singh*¹², the Court has also drawn a

¹⁰ Emphasis supplied.

¹¹ (2024) 5 SCC 264 [hereinafter "*Ravindra Kumar*"].

¹² Paragraph 32.



distinction between pending and concluded criminal cases, holding that non-disclosure of a pending case may itself lead to cancellation of the candidature of the accused person. It has been specifically observed that the employer is not obliged to await the outcome of the criminal proceedings. In such matters, discretion is clearly vested in the employer to take an appropriate decision, in the facts and circumstances of the case.

17. In the present case, the first question that arises is whether the pending criminal proceedings were, in fact, concealed by the petitioner from the prospective employer. It is not in dispute that the petitioner had erroneously stated in the application form that no “*criminal action or inquiry*” was pending against him. However, the case advanced in the present writ petition is that the petitioner sought an extension of the joining date in order to obtain documents relating to the criminal proceedings, which were subsequently submitted on 24.04.2025. In the counter affidavit filed by NGEL, it is stated that the petitioner did not possess the requisite character certificate, and that information regarding the pending criminal proceedings was independently received and verified by NGEL. Upon confirmation of his involvement, the petitioner’s candidature was cancelled by the impugned order.

18. When this writ petition was first taken up for hearing on 25.07.2025, the contentions advanced on behalf of the respective parties were recorded as follows:

“3. The offer of appointment dated 27.03.2025 provides inter alia for submission of an attestation form, which includes details with regard to the criminal proceedings. It is the contention of Mr. Hussain at the Bar that these were disclosed in the attestation form but the form was not accepted. However, no such contention finds place in the writ petition. A copy of the attestation form produced by Mr. Hussain is taken on record.”



4. To the contrary, Mr. Rajesh Gupta, learned counsel for NTPC, submits that NTPC discovered the factum of the pending FIR through independent enquiry. It is only thereafter that the petitioner sought deferment of his joining and filed an affidavit with regard to the pending criminal case.

5. The contentions of NTPC amount to allegations of mala fides and suppression of material facts, not only in the recruitment process but also before this Court. NTPC is, therefore, directed to place its case on affidavit within a period of one week from today, and to produce the relevant records.”

19. In the counter affidavit, NGEL specifically denied that the attestation form had been sought to be submitted by the petitioner, and further stated that no details of the criminal proceedings had been disclosed.

20. In the rejoinder, the petitioner contends that an attestation form was sought to be submitted on 10.04.2025, but was not accepted by NGEL for want of the requisite character certificate.

21. Notably, the petitioner’s contentions, based on the attestation form and his alleged attempt to submit the same on 10.04.2025, find no place in the writ petition, as originally filed. There is also no contemporaneous correspondence from the petitioner, which bears this out. None of the petitioner’s later communications refer to any attempt to submit the form on 10.04.2025.

22. We must, therefore, proceed on the basis that the first occasion on which the petitioner disclosed this information to NGEL was by way of his affidavit dated 15.04.2025, submitted on 24.04.2025. Even in the affidavit dated 15.04.2025, the petitioner disclosed only the pendency of the criminal proceedings, but omitted to mention that he had been arrested in connection with the same and subsequently granted bail.



23. The present case, therefore, falls within the category of cases where a criminal proceeding remained pending, but had been concealed from the employer at the relevant stage.

24. In such circumstances, the next question that arises is whether NGEL validly exercised its discretion in cancelling the petitioner's candidature.

25. It is pertinent to note that the advertisement itself explicitly required candidates to furnish correct particulars, and reserved NGEL's right to cancel the candidature of any candidate found to have misrepresented or suppressed material facts. The application form contained a categorical query as to whether "*any civil or criminal case or inquiry was pending*". The petitioner's unequivocal response in the negative constituted a clear misrepresentation, given that a criminal case under Sections 38, 48, 48A, and 49 of the Wild Life (Protection) Act, 1972, was admittedly pending before a competent court in Udaipur. The offer of engagement was also expressly conditional upon satisfactory verification of character and antecedents, as provided under Clause 24(f).

26. The principle that suppression of pending criminal cases can justify cancellation of candidature is well-established in several judgments, including *Avtar Singh* and *Satish Chandra Yadav*, as referred to above. This principle has also been elaborated by the Supreme Court in *Devendra Kumar v. State of Uttaranchal*¹³, which observed that:

"12. So far as the issue of obtaining the appointment by misrepresentation is concerned, it is no more res integra. The question is not whether the applicant is suitable for the post. The pendency of a criminal case/proceeding is different from suppressing the information of such pendency. The case pending against a person might not involve moral turpitude but suppressing of this information itself amounts to

¹³ (2013) 9 SCC 363 [hereinafter "*Devendra Kumar*"].



moral turpitude. In fact, the information sought by the employer if not disclosed as required, would definitely amount to suppression of material information. In that eventuality, the service becomes liable to be terminated, even if there had been no further trial or the person concerned stood acquitted/discharged.”

In the said judgment, the Supreme Court characterized such cases as those where employment had been secured by misrepresentation or fraud, making the appointment voidable at the employer’s discretion. The Court also referred to its earlier decisions¹⁴, and, accordingly, cautioned against interference by a writ court in such circumstances. The judgment in *Pawan Kumar*, by contrast, turned on the fact that the candidate had subsequently been acquitted.

27. From the decision of the Supreme Court cited above, the clear principle which emerges is that the employer has discretion in such matters, which may extend to continuing with an employment, even in the face of conviction of the employee, or cancelling the candidature, even in the situation of an acquittal. The position when criminal proceedings remain pending, and have been suppressed, however, generally justify a strict approach. When such discretion is vested in the employer, the exercise of discretionary and extraordinary jurisdiction under Article 226 of the Constitution is guided by the principle, that interference is justified only where discretion is exercised in a manner that is patently illegal, unreasonable, or arbitrary.

28. In the present case, NGEL has considered the nature of the criminal proceedings – concerning allegations of illegal possession and

¹⁴ *A.P. State Financial Corpn. v. GAR Re-Rolling Mills* [(1994) 2 SCC 647], *State of Maharashtra v. Prabhu* [(1994) 2 SCC 481], *Union of India v. M. Bhaskaran* [1995 Supp (4) SCC 100], and *Vizianagaram Social Welfare Residential School Society v. M. Tripura Sundari Devi* [(1990) 3 SCC 655].



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transportation of an elephant tusk – which it deemed serious. NGEL’s finding that suppression of such information raises questions regarding trustworthiness and character, affecting the candidate’s suitability and fitness, aligns with the principles laid down by the Supreme Court in the aforementioned judgments. While the Court recognizes the discretion available to an employer in varied factual scenarios, it has consistently emphasized the duty of a candidate to be candid and forthright in disclosure.

29. Having regard to the facts and circumstances discussed above, I do not consider it appropriate to exercise the jurisdiction of this Court under Article 226 of the Constitution in the present case.

30. The writ petition is, therefore, dismissed. The pending applications also stand disposed of.

PRATEEK JALAN, J

NOVEMBER 24, 2025

SS/Shreeya/